

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

HERMÈS INTERNATIONAL and
HERMÈS OF PARIS, INC.,

Plaintiffs,

-against-

MASON ROTHSCHILD,

Defendant.

CIVIL ACTION NO.

22-CV-00384 (JSR)

**DECLARATION OF KEVIN D.
MENTZER, PH.D.**

I, Kevin D. Mentzer, Ph.D., hereby declare as follows:

1. I was retained by Plaintiffs Hermès International and Hermès of Paris, Inc. (“Hermès”) as an expert on data science as applied to blockchain technologies and non-fungible tokens (or NFTs). I submit this declaration in support of Hermès’s motion for permanent injunction. I have firsthand knowledge of the matters stated herein.
2. METABIRKINS NFTs remain for sale on the NFT marketplace, LooksRare.
3. Defendant Mason Rothschild (“Rothschild”) maintains a royalty of 7.5% of the sales price of METABIRKINS NFTs on LooksRare. He has set this royalty several times, including most recently on January 28, 2023.
4. Rothschild could change the royalty to 0% on LooksRare but has not done so.
5. In connection with any sales of METABIRKINS NFTs on LooksRare, Rothschild would also receive a portion of the “protocol fees” collected by LooksRare. Under the current rules governing the LooksRare platform, Rothschild would receive 0.5% of the sale of any METABIRKINS NFT as a share of protocol fees, in addition to any royalty received.

6. Furthermore, in connection with any sales of METABIRKINS NFTs on the LooksRare platform, Rothschild would receive a “trading reward” from LooksRare. The amount of the “trading reward” is based on overall volume across the entire LooksRare marketplace. Any “trading reward” received would be in addition to any royalties and share of protocol fees that Rothschild received for the sale of METABIRKINS NFTs.

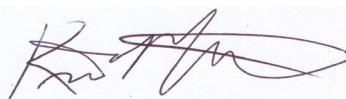
7. Rothschild and others could also sell METABIRKINS NFTs without using a marketplace, and the sale amount would be unknown to Hermès.

8. If Rothschild maintains control of the METABIRKINS NFT smart contract, he can: (i) mint new METABIRKINS NFTs; (ii) list the METABIRKINS NFTs in NFT marketplaces; (iii) set royalties; (iv) collect royalties; (v) change the digital file to which the METABIRKINS NFTs are linked to; and (vi) enter into agreements with metaverse platforms to enable integration of the METABIRKINS NFTs into their platforms. For example, the FAQ from the Decentraland metaverse, attached hereto as Exhibit A, describes how smart contract controllers can make 2D images linked to NFTs available for use on Decentraland.

9. Further, Rothschild could transfer or sell the METABIRKINS NFT smart contract to a third-party who could do the same.

10. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is accurate to the best of my knowledge.

Dated: March 3, 2023



Kevin D. Mentzer